


Entered - 07/16/03 - sb
CL03L0579 - DIANNE C. MITCHELL

04- *ℓ* -0973

CLAIM OF: NEVA DODD,
through her guardian,
Dean Cottle
335 Hidden Lake Drive
Fayetteville, Georgia 30215

For damages alleged to have been sustained as a result of the sale of
an abandoned vehicle on April 5, 2001 at 675 Ponce de Leon Avenue.

THIS ADVERSE REPORT IS APPROVED

BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE

6/1/04

CHAIR

C. T. Martin

H. S. Smith

Carla Smith

V. M. Smith

Clara Winston

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 03L0579

Date: May 14, 2004

Claimant /Victim DEAN COTTLE as guardian of NEVA DODD

BY: (Atty)(Ins. Co.) _____

Address: 335 Hidden Lake Drive, Fayetteville, Georgia 30215

Subrogation: Claim for Property damage \$ 3,745.00 Bodily Injury \$ _____

Date of Notice: 07/14/03/03 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) _____

Date of Occurrence 04/05/01 Place: 675 Ponce de Leon Avenue

Department Police Division: _____

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant, through her guardian, alleges that her vehicle was sold at auction by Futo's Wrecker Service after it was impounded. Futo's began court proceedings to foreclose on its lien and to authorize the sale of the abandoned vehicle. After satisfaction of the fees incurred by Futo's, the remaining proceeds were turned over to the Clerk of Magistrate Court of Fulton County on April 5, 2001. The claimant's guardian had twelve months to claim these proceeds, but made no effort to do so. The proceeds were disbursed to the City by the Clerk of Magistrate Court on September 17, 2002. The City followed all procedures permitted by law regarding the sale of this vehicle. Furthermore, the claim as presented does not comply with the state requirements of notice as set forth in O.C.G.A. §36-33-5, in that the six month statute of limitations expired prior to receipt of the claim.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures _____ Diagrams _____ Reports: Police X Dept Report _____ Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

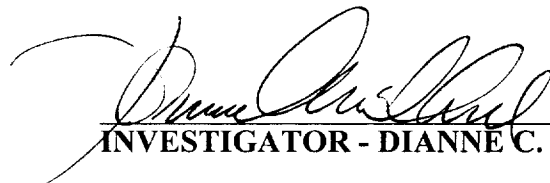
Improper Notice _____ More than Six Months X Other _____ Damages reasonable _____

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____ 2P01 _____

Claims Manager:  Concur/date 6/5/18/04

Committee Action: _____ Council Action _____

*Police
Mitchell
07/14/03*

Dean Cottle
335 Hidden Lake Dr
Fayetteville, GA 30215
H: 770-460-6462
C: 678-481-0611

8 July 2003

City Council Municipal Clerk
55 Trinity Ave SW
Atlanta, GA 30303

ENTERED 07-16-03 - DP
03L0579 - DIANNE MITCHELL

I am guardian for Neva Dodd and trying to recover the funds transferred to City of Atlanta's control from the sale of her impounded 1994 Cadillac two years ago. I have been trying for six months to determine who to contact and have been redirected numerous times. In March 2003 I finally contacted Stefani Searcy the Fulton County Court Chief Clerk. She was able to locate the transaction and verify that \$3,745.00 were transferred to the City of Atlanta. Ms Searcy recommended I contact Arthur Kai to process payment of the funds to Ms Dodd. Mr Kai required Deputy Shannon's approval before releasing any funds in this matter. I have sent two letters and several calls to Deputy Shannon's office without reply. I have attached copies of my previous correspondence with Deputy Shannon as well as copies of several documents which Ms Searcy mailed me regarding this matter.

Ms Dodd has been mentally incapacitated with dementia and financially incompetent since late 2000. Ms Dodd was arrested for DUI and her car impounded in September of 2000. This was her third DUI in a year. In December of 2000 she was placed under emergency guardianship by order of Fulton County Court. At the DUI trial in January 2001, she was court ordered to move to an assisted living facility in Fayetteville under my supervision to prevent access to alcohol. In May 2001 I was assigned Guardian by Fulton County Court. I have provided a copy of the guardianship papers verifying my relationship with Ms Dodd.

During this entire episode there has been no correspondence received regarding collection of the proceeds of the auction. The original notification of impoundment in September 2000 was sent to her old address. If any correspondence was sent to the old address after six months, the post office will not forward mail. I was unaware until recently the funds were not recovered and have been trying vigorously to remedy this situation for Ms Dodd.

Thank you for your assistance in this matter. Don't hesitate to call me if there are any questions or concerns.


Dean Cottle

cc:
Diane Mitchel

04- R-0973



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

June 11, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

Dean Cottle
Guardian
335 Hidden Lake Drive
Fayetteville, GA 30215

04-R-0973

RE: Neva Dodd

Dear Mr. Cottle:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on June 07, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

RCS# 5776
6/07/04
2:34 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG(S)1-17, EXCEPT: 04-R-1017
04-O-0932 04-O-0933 04-R-0986
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 0
EXCUSED: 1
ABSENT 1

E Smith	Y Winslow	Y Shook	Y Martin	Y Mitchell
B Starnes	Y Archibong	Y Muller	Y Maddox	Y Norwood
Y Young	Y Fauver	Y Moore	Y Mosley	Y Willis

CONSENT I

		6-07-04 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-0802 2. 04-O-0803 3. 04-O-0804 4. 04-O-0877 5. 04-O-0930 6. 04-O-0924 7. 04-O-0929 8. 04-O-0787 9. 04-O-0654 10. 04-O-0655 11. 04-O-0817 12. 04-O-0818 13. 04-O-0819 14. 04-O-0820 15. 04-O-0939 16. 04-R-1002 17. 04-R-1003 18. 04-R-1004 19. 04-R-1005 20. 04-R-1010 21. 04-R-1011 22. 04-R-1012 23. 04-R-1015 24. 04-R-0935 25. 04-R-1008 26. 04-R-1000 27. 04-R-1001 28. 04-R-0942 29. 04-R-0927 30. 04-R-0943 31. 04-R-1019 32. 04-R-0635 33. 04-R-0989 34. 04-R-0991 35. 04-R-0993 36. 04-R-0814 37. 04-R-0926 38. 04-R-0994 39. 04-R-0995 40. 04-R-0996 41. 04-R-0997 42. 04-R-0998	43. 04-R-1023 44. 04-R-1024 45. 04-R-1025 46. 04-R-0979 47. 04-R-0980 48. 04-R-0981 49. 04-R-0982 50. 04-R-0983 51. 04-R-0984 52. 04-R-0985 ITEMS ADVERSED ON CONSENT 53. 04-R-0944 54. 04-R-0945 55. 04-R-0946 56. 04-R-0947 57. 04-R-0948 58. 04-R-0949 59. 04-R-0950 60. 04-R-0951 61. 04-R-0952 62. 04-R-0953 63. 04-R-0954 64. 04-R-0955 65. 04-R-0956 66. 04-R-0957 67. 04-R-0958 68. 04-R-0959 69. 04-R-0960 70. 04-R-0962 71. 04-R-0963 72. 04-R-0964 73. 04-R-0965 74. 04-R-0966 75. 04-R-0967 76. 04-R-0968 77. 04-R-0969 78. 04-R-0970 79. 04-R-0971 80. 04-R-0972 81. 04-R-0973 82. 04-R-0974	83. 04-R-0975 84. 04-R-0976 85. 04-R-0977 86. 04-R-0978